



DOCUMENTATION OF LEGITIMATE RECYCLING

Persons performing the recycling of hazardous secondary material (HSM) under the Generator - Controlled Exclusion of Tennessee Rule 0400-12-01-.02(d)(xiii) or the Verified Recycler Exclusion of 12-01-.02(d)(xxiv) must maintain documentation of their legitimacy determination on site. Documentation must include a written description of how the recycling meets all four legitimacy factors in Tennessee Rule 0400-12-01-.02(5)(d). Documentation must be maintained for 3 years after recycling or reclamation operations have ceased.

This template is a suggested format modified from an Environmental Protection Agency format for documenting legitimacy. A facility may choose to create an alternative format for documenting legitimate recycling.

Additional information associated with the legitimate recycling provision development is found at the Federal Register, Vol. 80, January 13, 2015, pages 1720-1732.

Template and Example for Legitimacy Documentation

Provide a brief but concise narrative description describing how the hazardous secondary material (HSM) is recycled by the generator.

For example, the facility might write "spent solvents are reclaimed in an on-site distillation system in order to remove the contaminant and return the solvent back to commercial-grade."

For each of the four items below, describe how the proposed recycling or reclamation activity appropriately meets that legitimacy factor.

Factor 1:

How does the HSM provide a useful contribution?

- Contributes valuable ingredients to a product or intermediate
- Replaces a catalyst or carrier in the recycling process
- Is the source of a valuable constituent recovered in the recycling process
- Is recovered or regenerated by the recycling process
- Is used as an effective substitute for a commercial product

For example, the facility might write "spent solvents reclaimed on site to commercial grade are recovered or regenerated by the recycling process."

Factor 2:

How is the product or intermediate made from the HSM determined to be valuable?

- Sold to a 3rd party
- Used by the recycler or generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process
- Produces a valuable product or intermediate

Factor 3:

How is the HSM managed as a valuable commodity?

- There is an analogous raw material and the HSM is managed, at a minimum, in a manner consistent with the raw material, or in an equally protective manner
- There is no analogous raw material and the HSM is contained per 0400-12-01-.01(2)(a)

Provide a written description of how the hazardous secondary material is managed prior to being recycled:

For example, the facility would include a brief description of how the spent solvents are stored and managed prior to reclamation. The facility must manage their spent solvents before they are reclaimed in the same manner (or an equally protective manner) as the original commercial solvents.

Factor 4:

How is the product made with HSM comparable to a legitimate product or intermediate?

- If there is an analogous product or intermediate, confirm:
 - The product of the recycling process does not exhibit a hazardous characteristic (as defined in 0400-12-01-.02(3)) that analogous products do not exhibit; AND
 - The concentrations of any hazardous constituents found in Appendix VIII of 0400-12-01-.02 that are in the product or intermediate are at levels that are comparable to or lower than those found in analogous products OR
 - The concentrations of any hazardous constituents found in Appendix VIII of 0400-12-01-.02 that are in the product or intermediate are at levels that meet widely-recognized commodity standards and specifications (where the commodity standards and specifications include levels that specifically address those hazardous constituents).
- If there is no analogous product, confirm:
 - The product of the recycling process is a commodity that meets widely recognized commodity standards and specifications, OR

*TDEC Suggested Template:
Documentation of Legitimate Recycling*

- The hazardous secondary materials being recycled are returned to the original process or processes from which they were generated to be reused.
- If the product of the recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate as outlined above:
 - The person performing the recycling must conduct the necessary assessment and prepare documentation showing why the recycling is, in fact, still legitimate. The recycling can be shown to be legitimate based on lack of exposure from toxics in the product, lack of the bioavailability of the toxics in the product, or other relevant considerations which show that the recycled product does not contain levels of hazardous constituents that pose a significant human health or environmental risk. The documentation must include a certification statement that the recycling is legitimate and must be maintained on-site for three years after the recycling operation has ceased. The person performing the recycling must notify the Regional Administrator of this activity using [EPA Form 8700-12](#).

Provide a written description of how the product made with HSM is comparable to a legitimate product or intermediate:

For example, the facility must determine if the solvent from the recycling exhibits a characteristic that the virgin solvent does not. If it does not, then the facility would either directly compare the composition of the reclaimed solvent to the commercial solvent or apply widely-recognized commodity standards or specifications that include levels that address the hazardous constituents in the reclaimed solvent. The facility would include an explanation of which standard the reclaimed solvent meets in its documentation.